

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
Northern Division

MISSISSIPPI ASSOCIATION OF
EDUCATORS¹, ET AL,

Plaintiffs,

Civil No. 3:25cv00417-HTW-LGI

v.

LYNN FITCH, ET AL.,

Defendants.

**PLAINTIFFS' RESPONSE TO NON-IHL DEFENDANTS' AND
ATTORNEY GENERAL'S MOTION TO DISMISS AMENDED COMPLAINT [ECF #39]**

Barbara Phillips, James Thomas, Dawn Zimmerer, L.E. Jibol, United Campus Workers Southeast Local 3821, Madisyn Donley, Alexis Cobbs, Karen Aderer, Fostering LGBTQ+ Advocacy, Resources, Environments and Women in Science and Engineering (collectively, "Plaintiffs"), by and through undersigned counsel, file their response to Non-IHL Defendants' and Attorney General's Motion to Dismiss Amended Complaint [ECF #39], and in support thereof should as follows:

1. Plaintiffs have standing as to the non-IHL Defendants because they can establish injury in fact, causation, and redressability.
2. Plaintiffs' harms are traceable to the Non-IHL Defendants because they play a role in enforcing the challenged provisions of HB 1193.

¹ Plaintiff Mississippi Association of Educators has filed a Motion to be Removed as Plaintiff, Dkt. 45.

3. An injunction prohibiting the Non-IHL Defendants from enforcing compliance with the challenged provisions or a declaration that those provisions violate the First and Fourteenth Amendments would satisfy Article III's redressability requirement.

4. Plaintiff's claims against the Attorney General fall under the *Ex Parte Young* exception to the State's Eleventh Amendment Immunity because she has some connection with the enforcement of the challenged provisions.

5. Plaintiffs adopt and incorporate by reference, as if fully and completely set forth herein, the arguments and authorities set forth in the *Memorandum of Law in Support of Plaintiffs' Response to Non-IHL Defendants' and Attorney General's Motion to Dismiss [ECF #39]* and *IHL Defendants' Joinder in Motion to Dismiss [ECF #41]*, filed contemporaneously herewith.

6. Based on the grounds here-asserted as well as those in the above-referenced Memorandum of Law, Defendants' Motion to Dismiss should be denied.

For the reasons cited herein, Plaintiffs respectfully ask this court to enter an order denying Defendant's Motion to Dismiss.

Dated: July 16, 2025

Respectfully submitted,

<u>S/ ROBERT B. MCDUFF</u> ROBERT B. MCDUFF MS BAR NO. 2532 PALOMA WU MS BAR NO. 105464 MISSISSIPPI CENTER FOR JUSTICE 210 E. CAPITOL STREET, STE 1800 JACKSON, MS 39201 PHONE: (601) 259-8484 RMCDUFF@MSCENTERFORJUSTICE.ORG PWU@MSCENTERFORJUSTICE.ORG AMIR BADAT MS BAR NO. 106599 BADAT LEGAL PLLC	<u>S/ JOSHUA TOM</u> JOSHUA TOM MS BAR. No 105392 McKENNA RANEY MS BAR No. 106330 AYANNA HILL MS BAR No. 106590 AMERICAN CIVIL LIBERTIES UNION OF MISSISSIPPI FOUNDATION, INC. P.O. Box 2242 JACKSON, MS 39225 PHONE: (601) 354-3408 JTOM@ACLU-MS.ORG MRANEY@ACLU-MS.ORG AHILL1@ACLU-MS.ORG
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P.O. Box 15 TOUGALOO, MS 39174 PHONE: (601) 462-9592 AMIR.BADAT@GMAIL.COM	NICOLAS STANOJEVICH* QUINN, CONNOR, WEAVER, DAVIES & ROUCO LLP 2 20TH STREET NORTH, SUITE 930 BIRMINGHAM, AL 35203 PHONE: (205) 870-9989 NSTANOJEVICH@QCWDR.COM * <i>ADMITTED PRO HAC VICE</i> <i>COUNSEL FOR PLAINTIFFS</i>
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CERTIFICATE OF SERVICE

I certify that the foregoing has been filed on the ECF system which served all counsel of record on this 16th day of July, 2025.

s/ Joshua Tom
Joshua Tom
Co-counsel for Plaintiffs